THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36908 of 1998

Dated:20.08.2007

Between

Y.Venkat Reddy

.....Petitioner

and

1.AP State Electricity Board rep.,
by its Chairman, Vidyut Soudha,
Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36908 of 1998

ORDER:

This writ petition has been filed seeking a Certiorari to call for the records relating to the impugned proceedings No.CE/DC/DM/V/710-Q2/95-18, dated 14.7.1998 issued by 1st respondent confirming the orders of 2nd respondent vide proceedings No.CE/Disc/DM.V/710-Q2/95-16 dated 11.11.1997 imposing the punishment of stoppage of three increments with cumulative effect and to quash the same as arbitrary and illegal.

It appears that the petitioner while working as a Lineman in APSEB, Ramannapeta, Nalgonda District, was proceeded departmentally on the following allegations:

“Extension of service 80 feet away from service of supply to a Hotel owned by Pratap Singh at Vattimarthy and released the service by suppressing facts for his personal gain.

Release of new service SC No.1758 to a residential premises in Chityala purchased by Smt M.Sumathanna, when there are arrears on existing service bearing No.548 in the same premises which is under disconnection in the name of Ghouse Mia, who is a Board employee and original owner of the premises.

Releasing of new service bearing No.1614 and 1982 to a premises having huge arrears under SC No.188 and 40.

Un-authorised and illegal shifting of Industrial Service under SC No.1080, 89 and 1126 without collecting shifting charges to the Board account for personal gain with malafide intention.

One old service SC No.515 existed in the name of Sri G.Mohan Reddy was disconnected on 24.10.1991 with arrears of Rs.4,778/-. In the same premises two number meters were

> fixed and released on 18.9.1991 in the names of S/Sri G.Prashant Reddy and G.Venkat Reddy with SC Nos.1866 and 1859, with one existing running with dues to department. Sri Y.Venkat Reddy had executed this for his personal gains suppressing the facts."

The Enquiry Officer in the report stated that the charge of personal gains is not be established. However, the disciplinary authority passed final order imposing punishment of stoppage of three increments with cumulative effect. Aggrieved by the same, the petitioner carried the matter in appeal and the appellate authority confirmed the same. Therefore, the present writ petition is filed.

Learned counsel for the petitioner strenuously contended that instead of 3rd respondent-Superintending Engineer, the Member Secretary of the Electricity Board passed the impugned order. There is no such power vested with the Member Secretary to pass such an order at that stage of the proceedings.

A detailed counter has been filed by the

respondents denying the allegations made by the petitioner and it is asserted that under Regulations 7 (C) of the APSEB Discipline Appeal and Regulation, powers are delegated to the Member Secretary of the Electricity Board. Regulation 7 (C) reads as under:

> "where in any case a lower authority has imposed penalty or exonerated a member it shall not debar a higher authority from exercising his power under this regulation in respect of the same case. The order of such higher authority shall supersede any order passed by a lower authority in respect of the same case. Provided that in cases where a case is sought to be re-opened after one year, the authority concerned (the reopening authority) should obtain the permission of the next higher authority or the Board as the case may be."

On a close examination of the above provision, it is clear that the Member Secretary or higher authority can take up the matter only where the lower authority has imposed penalty or exonerated a member but not otherwise.

Admittedly, this is a case where enquiry was completed, but the disciplinary authority has not passed any orders. The Member Secretary assumed the position of the disciplinary authority and passed the impugned order, which is not in tune with Regulation 7 (C) of APSEB Discipline Appeal and Regulation. On this ground alone, the impugned order as confirmed by 1st respondent is liable to be set aside. However, in view of the fact that ten years period has elapsed, I deem it appropriate to give a quietus to this litigation by modifying the order passed by the respondents instead of remanding the matter for reconsideration to the disciplinary authority.

In the facts and circumstances of the case, the impugned order dated 11.11.1997 as confirmed by the appellate authority vide its order dated 14.7.1998, is modified as under.

The petitioner shall suffer three increments with cumulative effect for a period of ten years from the date of impugned order dated 11.11.1997 upto 31st December,2006 and the respondents shall

restore the same from 1st January , 2007. However, the petitioner is not entitled for any notional fixation from the date of passing of the impugned order till 31st of December, 2006.

Writ petition is disposed of accordingly. No costs.

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21-08-2007

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